

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SQUAXIN ISLAND TRIBE, ISLAND
ENTERPRISES INC., SWINOMISH
INDIAN TRIBAL COMMUNITY, and
SWINOMISH DEVELOPMENT
AUTHORITY,

Plaintiffs,

v.

FRED STEPHENS, Director, Washington
State Department of Licensing,

Defendant.

No. C03-3951Z

AMENDED JUDGMENT AND
PERMANENT INJUNCTION

This action came on for hearing before the Court, Honorable Thomas S. Zilly, United States District Judge, presiding, and the issues having been heard and a decision having been rendered on November 22, 2005, docket no. 129, and the Court's Order of March 2, 2006, docket no. 146, it is hereby Ordered, Adjudged, and Decreed:

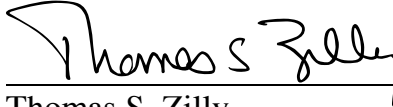
1. The Court grants judgment in favor of Plaintiffs on Count I of Plaintiffs' Second Amended Complaint for the reasons stated in the Court's Orders dated November 22, 2005, and March 2, 2006.
2. The Court dismisses as moot, and without prejudice, Counts II and III of Plaintiffs' Second Amended Complaint.

- 1 3. The legal incidence of the State of Washington's motor vehicle fuel tax, RCW
2 chapter 82.36, which became effective January 1, 1999, and the State of
3 Washington's special fuels tax, RCW chapter 82.38, which became effective
4 January 1, 1999, rests upon the retailer of those fuels.
- 5 4. As a matter of federal law, the State of Washington's motor vehicle and special
6 fuels taxes may not be applied to motor vehicle fuels, special fuels, and fuel
7 products, with the exception of dyed diesel, delivered to, received by, or sold
8 by any retail fuel station that is owned by an Indian tribe, tribal enterprise, or
9 tribal member and that is located within the tribe's Indian Country.
- 10 5. Defendant is permanently enjoined from imposing or collecting motor vehicle
11 and special fuels taxes, or otherwise seeking to enforce RCW chapter 82.36 or
12 RCW chapter 82.38 with respect to motor vehicle fuels, special fuels, and fuel
13 products delivered to, received by, or sold by Plaintiffs' retail fuel stations
14 within their respective Indian Country, with the exception of dyed diesel.
- 15 6. Within 30 days, Defendant shall notify in writing all licensees under RCW
16 chapter 82.36 and all licensees under RCW chapter 82.38 that (a) motor
17 vehicle and special fuel taxes may not be imposed upon, collected from, or
18 passed on to Plaintiffs' retail fuel stations, with the exception of dyed diesel,
19 and (b) with respect to fuels delivered to or received by Plaintiffs' retail fuel
20 stations where a licensee does not impose upon, collect from, or pass on to
21 Plaintiffs' retail fuel stations any motor vehicle or special fuels taxes, with the
22 exception of dyed diesel, a licensee may seek refunds pursuant to RCW
23 82.36.273 and RCW 82.38.185 for taxes previously paid on those fuels.
24 Defendant's notification shall include a copy of this Amended Judgment.

1 7. Upon the issuance of any license under RCW chapter 82.36 or RCW chapter
2 82.38, Defendant shall provide to the licensee the notice required by this
3 Amended Judgment.

4 8. This Judgment is binding upon the Defendant, his successors, and their
5 respective officers, agents, servants, employees, and attorneys, and upon those
6 persons in active concert or participation with them who receive actual notice
7 of this order by personal service or otherwise.

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9 Dated this 2nd day of March, 2006.

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12 Thomas S. Zilly
13 United States District Judge
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